

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

JOHN GALLOWAY, individually, and on)
behalf of all other similarly situated, *et al.*)

Plaintiffs,)

vs.)

APARTMENT INVESTMENT AND)
MANAGEMENT COMPANY, *et al.*)

Defendants.)

Civil Action No. 1:07-cv-06435

JOINT STATUS REPORT

I. BACKGROUND

Defendant Apartment Investment and Management Company (“AIMCO”) is a real estate investment trust (“REIT”) which, by and through affiliates, owns apartment communities nationwide. The remaining Defendants are subsidiaries of the REIT which currently employ, or have employed, the Plaintiffs as maintenance personnel at apartment communities located in New York.

As part of their job duties, maintenance personnel respond to calls from apartment tenants for emergency and non-emergency repairs. Maintenance personnel are sometimes also required to be available to work after regularly scheduled hours on an on-call basis. Plaintiffs allege that Defendants did not pay Plaintiffs either for all the time worked while on-call or for time spent waiting to receive emergency service requests during their on-call time. Defendants contend they pay their maintenance personnel for time spent responding to tenant calls but contend they are not legally obligated to pay maintenance personnel for the time they spend engaged in non-work activities during their on-call time.

Plaintiffs' Amended Complaint asserts two separate claims for relief under wage and hour laws. First, Plaintiffs allege that they were not paid for hours worked in excess of 40 in a workweek spent responding to emergency tenant service requests while they were on-call (the "unpaid overtime claim"). Second, some, but not all, Plaintiffs allege that their ability to engage in personal pursuits while "on-call" was so limited that the time they spent "on call" waiting to receive emergency service requests from tenants should be compensable ("the waiting time claim"). Defendants deny the allegations of both claims.

II. STATUS

Pursuant to the case management plan adopted by the Court, the parties have completed their responses to written discovery and exchanged initial disclosures with respect to each of the eleven plaintiffs. The parties then were able to use that information to commence mediation.

The parties met with mediator Hunter Hughes on April 28, 2008 in an attempt to resolve not only this case, but also the 20 other similar cases pending in various courts nationwide. The parties have not yet reached any agreement, but discussions are continuing.

III. PLAN TO COMPLETE DISCOVERY

- (1) The parties propose to complete all remaining discovery by December 31, 2008.
- (2) The parties propose that any expert reports be produced by November 1, 2008 and any rebuttal reports produced by December 1, 2008.
- (3) The parties propose that a deadline for dispositive motions be set for 30 days after the close of discovery.

Dated: May 1, 2008

Respectfully submitted,

By: /s/Gregory Reilly

Gregory Reilly
LITTLER MENDELSON, P.C.
885 Third Avenue, 16th Floor
New York, N.Y. 10022-4834
Telephone: (212) 583-2861
Facsimile: (212) 832-2719

and

John M. Husband, P.C.
Thomas E.J. Hazard, P.C.
Christina F. Gomez
Tanya E. Milligan
HOLLAND & HART, LLP
555 Seventeenth Street
Suite 3200
Denver, CO 80202
Telephone: (303) 295-8000
Facsimile: (303) 295-8261

Attorney for Defendants

By: /s/Llezzlie L. Green

Joseph M. Sellers
Charles E. Tompkins
Llezzlie L. Green (lg-0911)
COHEN, MILSTEIN, HAUSFELD &
TOLL P.L.L.C.
1100 New York Avenue, N.W.
Suite 500, West Tower
Washington, DC 20005
Telephone: (202) 408-4600
Facsimile: (202) 408-4699

and

Steig Olson (so-0414)
COHEN, MILSTEIN, HAUSFELD &
TOLL, P.L.L.C.
152 East 52nd Street
Thirtieth Floor
New York, N.Y. 10022
Telephone: (212) 838-7797
Facsimile: (212) 838-7745

Attorneys for Plaintiffs